

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER DIVIDING AND CHANGING OWNERSHIP,

CANCELLATION IN PART OF WATER APPROPRIATION A-2051A

AND APPROVAL OF MAPS NUMBER 20492 AND 20516

WATER DIVISION 2-A

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that a portion of land located in the NE $\frac{1}{4}$  of Section 31, Township 15 North, Range 17 West of the 6<sup>th</sup> P.M. in Custer County appurtenant to surface water appropriation A-2051A is owned by Keith A. and Sara J. Walker.
2. Records on file in the Department show that a portion of land located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 31 of said legal description appurtenant to surface water appropriation A-2051A is owned by Jeffery J. Hartman.
3. Appropriation A-2051A with a priority date of November 10, 1928, authorizes the use of water for irrigation of the 146.0 acres of land described below. The water may be diverted from Mud (Beaver) Creek at points of diversion located on both banks of the stream in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 31, Township 15 North, Range 17 West of the 6<sup>th</sup> P.M. in Custer County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum combined rate of 2.08 cfs from all points of diversion.

Township 15 North, Range 17 West of the		Acres
6 <sup>th</sup> P.M. in Custer County		
Section 31:	NW $\frac{1}{4}$ NE $\frac{1}{4}$	38.0
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	37.0
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	37.0
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>34.0</u>
TOTAL		146.0

4. On March 25, 2020, Jeffery J. Hartman filed a *Notice of Change of Ownership/Water Resources Update Notice* indicating that he is the owner of a portion of the land authorized to be irrigated by appropriation A-2051A.
5. Appropriation A-2051 was originally granted to a single landowner. The appurtenant land was later divided into two distinct parcels with multiple owners; the appropriation was split into A-2051A, held by Keith A. and Sara J. Walker and A-2051B, held by Jordan Jaeschke et al.

6. Subsequently, the land appurtenant to appropriation A-2051A was divided into two distinct parcels; one owned by Keith A. and Sara J. Walker, the other by Jeffery J. Hartman. Because of the multiple owners, the Department determined that it is in the best interest of the owners and the State to divide the water appropriation between the two owners so that each owner's rights are distinguishable.
7. On January 24, 2020, Keith A. and Sara J. Walker filed relinquishment REL-7859, relinquishing the right to divert water under a portion of appropriation A-2051A to irrigate the 51.7 acres of land described below.

<u>Township 15 North, Range 17 West of the</u>	
<u>6<sup>th</sup> P.M. in Custer County</u>	<u>Acres</u>
Section 31: NW $\frac{1}{4}$ NE $\frac{1}{4}$	5.6
NE $\frac{1}{4}$ NE $\frac{1}{4}$	6.0
SW $\frac{1}{4}$ NE $\frac{1}{4}$	14.5
SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>25.6</u>
TOTAL	51.7

ORDER

IT IS HEREBY ORDERED:

1. Appropriation A-2051A is divided into two appropriations, A-2051A and A-2051C.
2. Part of appropriation A-2051A at the rate of 0.74 cfs for use upon the 51.7 acres of land described above is CANCELLED.
3. Appropriation A-2051A authorizes the use of water to irrigate the 83.8 acres of land described below and depicted on map number 20492, which is made a part of this Order. Water diverted from Mud (Beaver) Creek shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 1.19 cfs (534 gallons per minute).

<u>Township 15 North, Range 17 West of the</u>	
<u>6<sup>th</sup> P.M. in Custer County</u>	<u>Acres</u>
Section 31: NW $\frac{1}{4}$ NE $\frac{1}{4}$	20.8
NE $\frac{1}{4}$ NE $\frac{1}{4}$	31.2
SW $\frac{1}{4}$ NE $\frac{1}{4}$	23.4
SE $\frac{1}{4}$ NE $\frac{1}{4}$	<u>8.4</u>
TOTAL	83.8

4. Appropriation A-2051C authorizes the use of water to irrigate the 10.5 acres of land described below and depicted on map number 20516, which is made a part of this Order. Water diverted from Mud (Beaver) Creek shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum rate of 0.15 cfs (67 gallons per minute).

<u>Township 15 North, Range 17 West of the</u>	
<u>6<sup>th</sup> P.M. in Custer County</u>	<u>Acres</u>
Section 31: NW $\frac{1}{4}$ NE $\frac{1}{4}$	10.5

5. All terms and conditions of the approval of appropriation A-2051 and A-2051A remain in effect unless specifically changed by this Order.
6. The points of diversion for A-2051A and A-2051C remain in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 31, Township 15 North, Range 17 West of the 6<sup>th</sup> P.M. in Custer County, as depicted on maps number 20492 and 20516. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated per year.
7. If the appropriators of A-2051A and A-2051C do not have access to the points of diversion, they must either obtain permission from the landowner or file a Petition for Relocation of the Point of Diversion and have it approved by the Department prior to any diversion. The Order does not authorize access to the existing points of diversion.

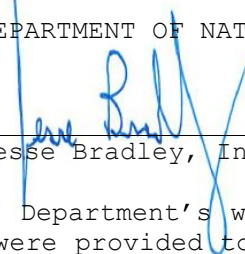
#### ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this Order may cause cancellation of part or all of this appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use an appropriation for more than five consecutive years may result in cancellation of the appropriation. These appropriations are not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. These appropriations may be closed if there is insufficient water to satisfy senior appropriations.

DEPARTMENT OF NATURAL RESOURCES

May 4, 2020

  
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Jesse Bradley, Interim Director

A copy of this Order was posted on the Department's website. Copies of this Order and maps number 20492 and 20516 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and maps number 20492 and 20516 were mailed on May 4, 2020, to the following:

Keith A. and Sara J. Walker  
78835 Drive 459  
Mason City, Nebraska 68855

Jeffery J. Hartman  
45656 Road 787  
Mason City, Nebraska 68855